

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper No.

18

Filed by: Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SATOSHI OSUKA, NOBORU ISHIKAWA,
MICHIAKI ADACHI, TERUFUMI HAMANO,
YOUICHI KIMURA and HIROSHI HANAGASAKI

Junior Party,
(Patent 5,772,096)¹,

v.

CHARLES J. MOORMAN,
JAMES J. DIERSING and SHIN-LEEI HWANG

Senior Party
(Application 09/345,203)².

Patent Interference No. 104,723

Before LEE, TORCZON and MEDLEY, Administrative Patent Judges.

¹ Based on application 08/628,465, filed April 5, 1996.
The real party in interest is Max Co., Ltd.

² Filed June 30, 1999. Accorded the benefit of
application 09/049,168, filed March 27, 1998; application
08/790,009, filed January 28, 1997; and application
08/327,279, filed October 21, 1994. The real party in
interest is Senco Products, Inc.

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LEE, Administrative Patent Judge.

JUDGMENT

On October 12, 2001, junior party Osuka filed a paper (Paper No. 17) entitled "Osuka Motion for Adverse Judgment," in which it stated:

The party Osuka, Noboru Ishikawa, Michiaki Adachi, Terufumi Hamano, Youichi Kimura and Hiroshi Hanagasaki (the "Party Osuka") hereby motions for adverse judgment. In requesting such, it is noted that the claimed invention of this interference is not practiced by Max Company Co., Ltd., the assignee of USPN 5,772,096 to the Party Osuka.

In a telephone conference call on the morning of October 15, 2001, and in response to an inquiry from the administrative patent judge, party Osuka clarified that the last sentence of the above-quoted text is not meant as any condition or contingency for the junior party's request for entry of adverse judgment. In other words, the request does not depend on anyone's agreement with Osuka's characterization of whether its assignee is now practicing the invention claimed in Patent No. 5,772,096.

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In light of the clarification, the request for entry of adverse judgment is **granted**.³ It is

ORDERED that judgment is herein entered against junior party SATOSHI OSUKA, NOBURO ISHIKAWA, MICHIAKI ADACHI, TERUFUMI HAMANO, YOUICHI KIMURA, and HIROSHI HANAGASAKI, who thus are not entitled to its patent claims 1 and 2 which correspond to the count; and

FURTHER ORDERED that a copy of this paper will be given a paper number and entered in the involved application or patent of the respective parties.

Jameson Lee)	
Administrative Patent Judge))	
)	
)	BOARD OF PATENT
)	APPEALS
Richard Torczon)	AND
Administrative Patent Judge))	INTERFERENCES

³ Failure to file a copy of any agreement regarding the termination of this proceeding may render the agreement and any resulting patents unenforceable. See section 135(c) and 37 CFR § 1.661 for more details.

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_____)
Sally C. Medley)
Administrative Patent Judge)

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